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| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number (Optional) 99-0033/COA (8470-000114/COA) | |
| I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] | | Application Number 10/624,869 | Filed July 22, 2003 |
| On December <u>5</u> , 2005 | | First Named Inventor Duclos et al. | |
| Signature <u>Ronald W. Wangerow</u> | | Art Unit 3677 | Examiner Michael J. Kyle |
| Typed or printed name <u>Ronald W. Wangerow</u> | | | |
| Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. | | | |
| This request is being filed with a notice of appeal. | | | |
| The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided. | | | |
| (See Attachment) | | | |
| I am the | | | |
| <input type="checkbox"/> applicant/inventor | | | |
| <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) | | | |
| <input checked="" type="checkbox"/> attorney or agent of record Registration number <u>29,597</u> | | | |
| <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____ | | | |
| NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below. | | <u>Ronald W. Wangerow</u> Signature <u>Ronald W. Wangerow</u> Typed or printed name <u>734-354-5445</u> Telephone number <u>December 5, 2005</u> Date | |
| <input type="checkbox"/> Total of _____ forms are submitted. | | | |

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**Attachment to Pre-Appeal Brief Request for Review
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Claims 1-4, 7-11, 14-15, 17-19, 21, 22, 24 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Creavey (U.S. Pat. No. 3,033,582, hereinafter "Creavey") in view of Dugge (U.S. Pat. No. 4,768,684, hereinafter "Dugge"). This rejection is respectfully traversed.

Claims 17 and 40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jackson (U.S. Pat. No. 2,513,178, hereinafter "Jackson") in view of Dugge. This rejection is respectfully traversed.

Claims 5, 6, 13 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Creavey in view of Dugge, and further in view of Combet et al. (U.S. Pat. No. 6,390,479, hereinafter "Combet"). This rejection is respectfully traversed.

Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Creavey in view of Dugge, and further in view of Lucas et al. (U.S. Pat. No. 4,635,949, hereinafter "Lucas"). This rejection is respectfully traversed.

Applicants note that independent claim 1 includes "a carrier member (10) having a top surface (12) facing the first sealing surface and an opposite surface (18) facing the second sealing surface; a first stopper member (22) located on said top surface (12), said first stopper member (22) formed independently from said carrier member (10); a second stopper member (24) on said top surface (12) in spaced relationship to said first stopper member (22), said second stopper member (24) formed independently from said carrier member (10); said first and second stopper members (22), (24) forming a cavity (36) therebetween, with each having a height above said top surface; and an elastomeric seal member (62) located in said cavity (36), said elastomeric seal member (62) having at least one sealing bead, said sealing bead having an apex (64) which

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extends from said top surface and is greater than said height of said first and second stopper members (22), (24), and said apex (64) is adapted to compress to said height of said first and second stopper members (22), (24), with said first stopper member (22) and said second stopper member (24) preventing said seal member (62) from being over compressed while the gasket (100) is subjected to the clamp load from the first sealing surface and the second sealing surface." Similarly, independent claims 10 and 17 each include limitations directed to the stopper members being formed independently of the carrier member. The Examiner acknowledges that Creavey fails to disclose stopper members formed independently from the carrier member. The Examiner asserts that Dugge teaches a stopper member formed independently from a carrier member. Applicants respectfully disagree with the Examiner's interpretation of the Dugge reference.

With respect to Figure 3 of Dugge, Applicants note that what the Examiner calls the "carrier member (11)" is actually the flange (11) of the outlet frame of the pneumatic outlet of a hopper (1) as is clearly shown in Figures 1 and 2. The flange 11 includes a recessed groove 33 that receives a gasket 31. The gasket 31 provides a seal between the flange 11 of the outlet wall 7 and the hopper frame 19. Applicants emphasize that the flange 11 is one of the members 11, 19 between which the gasket 31 provides a seal. Therefore, it is unreasonable for the Examiner to interpret the flange 11 as being part of the gasket. The embodiment of Figure 3 does not even include a carrier. The Examiner does acknowledge that in the embodiment of Figure 3, the stoppers are formed integrally with the flange (11).

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With respect to Figure 4, Dugge actually refers to a retrofit gasket assembly (45). The Examiner states that "the stoppers are formed independently from the carrier (11) by metal portion (47)." Applicants respectfully disagree with this interpretation. While the ends (numbered 53, 55) of the spacer (47) may serve as stoppers, the flange (11) certainly would not serve as a carrier, since it is one of the two members 11, 19 between which the gasket system 45 provides a seal. If anything were considered a carrier in Figure 4 of Dugge '684, it would be the recessed portion of the spacer (47). Dugge specifically states that the recesses in the spacer (47) are intended to house the gaskets (65, 67) and even explains ways that they may be coupled to one another (col. 5, lines 18-45). As a result of the spacer 47 including both the stoppers and the carrier, the stoppers and the carrier are integrally formed in Figure 4 of Dugge. Accordingly, Figure 4 of Dugge '684 clearly teaches away from the present invention, which requires the first and second stopper members to be independently formed from the carrier. Applicants submit that even if the flange 11 of Dugge is a "carrier" in the embodiment of Figure 3, it is not properly construed as a "carrier" in the separate embodiment of Figure 4 which clearly provides a different carrier 47 separate from the flange 11.

As such, Applicants respectfully submit that claims 1-11, 13-15, 17-25 and 40 are in condition for allowance. Therefore, reconsideration and withdrawal of the rejections are respectfully requested.